

FILED

JUN - 8 2009

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ DeputyIN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

UNITED STATES OF AMERICA

v.

OMAR MENDOZA

§  
§  
§  
§  
§2:03-CR-0047 (19)  
2:05-CV-0294

**ORDER OVERRULING OBJECTIONS,**  
**ADOPTING REPORT AND RECOMMENDATION,**  
**AND GRANTING DEFENDANT'S MOTION TO VACATE**

Defendant OMAR MENDOZA has filed a motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence by a person in federal custody. A Report and Recommendation was entered by the United States Magistrate Judge on March 13, 2009, recommending that defendant's motion be granted as to defendant's claim of ineffective assistance of trial counsel. On March 24, 2009, the government timely filed objections to the Report and Recommendation.

The United States District Judge has made an independent examination of the record in this case and has examined the Report and Recommendation of the Magistrate Judge. The undersigned United States District Judge hereby OVERRULES the government's objections, and ADOPTS the Magistrate Judge's Report and Recommendation. Accordingly, defendant's motion to vacate is GRANTED.

IT IS SO ORDERED.

ENTERED this 8<sup>th</sup> day of June 2009.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE